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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/712,194

11/13/2003

Richard Leifer

200-88

8279

24336

7590

03/09/2005

KEUSEY, TUTUNJIAN & BITETTO, P.C.  
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EXAMINER

TON, ANABEL

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/712,194	<b>Applicant(s)</b> LEIFER, RICHARD	
	<b>Examiner</b> Anabel M. Ton	<b>Art Unit</b> 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35-37 is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-13, 15, 18, 19, 21-28 and 30-34 is/are rejected.
- 7) ☒ Claim(s) 10, 14, 16, 17, 20 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,3-9,11-13,18,21,2,24,26,27,28,30-33 are rejected under 35

U.S.C. 102(e) as being anticipated by Elghoroury et al (6,648,496).

3. Elghoroury et al discloses a night light comprising a light source', and a reflector for receiving and reflecting light from said light source (col. 3 lines 33-41);

- An AC power connector for connecting the night light to an outlet (col. 4 lines 10-20); a battery power source; and a power sensor connected to said AC power connector for detecting AC power connected to the night light (figs 4-5, col5 lines 10-25);
- Said battery source is activated to power said light source upon detection of AC power loss through said AC power connector (col5 lines 10-25);
- . Comprising a manual override switch connected to said battery source and said light source for manually connecting said battery to said light source (inherently a switch must exist in the device to switch from AC power to battery power),

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- Reflector is movable to reflect the received light upward from the night light (col. 3 lines 33-41);
- Light source comprises at least one selected from a group consisting of a light emitting diode (LED), a surface mount diode (SMD), and an incandescent light (LED's are recited as the light source, 26).
- A secondary light source (26) disposed in said housing and directed to illuminate an area around the night light in response to a detected power failure by said power sensor (the light source turns on with there is a power failure detected by the battery means provided in the device).
- A first light source', a second light source; and a reflector for receiving and reflecting light generated by one of said light sources in response to power supplied to the night light (col. 5 lines 10-25 (figure 1);
- An AC power supply; a controller connected to said first and second light sources, said AC power supply and said reflector, said controller determining the presence of AC power through said AC power supply (col. 5 lines 10-25, fig 5).
- A battery source connected to say controller.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2,15,19,23- rejected under 35 U.S.C. 103(a) as being unpatentable over Elghoroury in further in view of Chien (6,171,117).
6. Elghoroury discloses the claimed invention except for the recitation of a light sensor. Chien discloses a night light with a light sensor for detecting a certain light level and turning the light on. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement a light sensor in the device of Elghoroury for the purpose of providing the night light with a means for turning on the light when the ambient light darkens to facilitate finding the light.
- 7.

***Allowable Subject Matter***

8. Claims 35-37 are allowed.
9. Claims 10,14,16,17,20,29 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

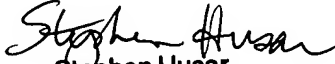
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton  
Examiner  
Art Unit 2875

AMT

  
Stephen Husar  
Primary Examiner